SENATE DOCKET, NO. 1185 FILED ON: 1/20/2011

SENATE . . . . . No. 1577

The Commonwealth of Massachusetts

PRESENTED BY:

James B. Eldridge

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act restoring public confidence in government by eliminating "pay-to-play" opportunities.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
James B. Eldridge	☐ *[District]* ☐
William N. Brownsberger	☐ *[District]* ☐
James Arciero	*2nd Middlesex*
Cory Atkins	*14th Middlesex*
Jason M. Lewis	*31st Middlesex*

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SENATE . . . . . No. 1577

By Mr. Eldridge, a petition (accompanied by bill, Senate, No. 1577) of James B. Eldridge, William N. Brownsberger, James Arciero, Cory Atkins and others for legislation to restore public confidence in government by eliminating pay-to-play opportunities . State Administration and Regulatory Oversight.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
SENATE
, NO. *347* OF 2009-2010.]

The Commonwealth of Massachusetts

An Act restoring public confidence in government by eliminating "pay-to-play" opportunities.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. This Act may be cited as the “Lobbyist and State Contractor Political Responsibility Act of 2011”

SECTION 2. Chapter 55 of the General Laws is hereby amended by inserting after section 13 the following two sections:-

Section 13A. (a) No legislative or executive agent, as defined by section 39 of chapter 3, shall directly or indirectly make, solicit or receive any contribution, or coordinate contributions for: (1) any candidate or candidates for governor, lieutenant governor, governor’s council, attorney general, state secretary, auditor, treasurer, district attorney, state senator or state representative; or (2) any political committee organized to promote any such candidate. This section shall not prevent these legislative or executive agents from being members of political organizations or political committees. The soliciting or receiving of any gift, payment, contribution, assessment, subscription or promise of money or other thing of value by a non-elected political committee organized to promote the candidacy for public office of any of these legislative or executive agents shall not be considered a direct or indirect solicitation or receipt of a contribution by such a legislative or executive agent.

16 (b) No legislative or executive agent, as defined by section 39 of chapter 3, shall
17 make, or promise, expressly or impliedly, to make any independent expenditure or electioneering
18 communication in support of or opposition to any candidate or candidates for governor,
19 lieutenant governor, governor's council, attorney general, state secretary, auditor, treasurer,
20 district attorney, state senator or state representative.

21 (c) Violation of any provision of this section shall be punished by imprisonment for
22 not more than one year or by a fine of not more than $10,000.

23 Section 13B. (a) As used in this section, the following terms shall have the following
24 meanings:

25 (1) "Quasi-public agency" shall mean any authority or entity established by the
26 General Court to serve a public purpose including, but not limited to, Bay State Skills
27 Corporation, Boston Metropolitan District, Centers of Excellence Corporation, Community
28 Economic Development Assistance Corporation, Community Development Finance Corporation,
29 Government Land Bank, Massachusetts Bay Transportation Authority, Massachusetts Business
30 Development Corporation, Massachusetts Convention Center Authority, Massachusetts
31 Corporations for Educational Telecommunications, Massachusetts Educational Loan Authority,
32 Massachusetts Health and Educational Facilities Authority, Massachusetts Horse Racing
33 Authority, Massachusetts Housing Finance Agency, Massachusetts Industrial Finance Agency,
34 Massachusetts Industrial Service Program, Massachusetts Port Authority, Massachusetts Product
35 Development Corporation, Massachusetts Technology Development Corporation, Massachusetts
36 Technology Park Corporation, Massachusetts Turnpike Authority, Massachusetts Water
37 Resources Authority, Pension Reserves Investment Management Board, State College Building
38 Authority, Southeastern Massachusetts University Building Authority, Thrift Institutions Fund
39 for Economic Development, University of Lowell Building Authority, University of
40 Massachusetts Building Authority, and the Water Pollution Abatement Trust

41 (2) "State agency" shall mean any office, department, board, council, commission,
42 institution or other agency in the executive, legislative or judicial branch of state government.

43 (3) "State contract" shall mean any agreement or contract with the state or any state
44 agency or any quasi-public agency for: (i) the rendition of personal services; (ii) the furnishing of
45 any material, supplies or equipment; (iii) the construction, alteration or repair of any public
46 building or public work; (iv) the acquisition, sale or lease of any land or building; (v) a licensing
47 arrangement; or (vi) a grant, loan or loan guarantee.

48 (4) "State contractor" shall mean any individual, group, association, corporation or
49 other entity that enters into a state contract. Such person, business entity or nonprofit
50 organization shall be deemed to be a state contractor until the termination of said contract. "State
51 contractor" does not include a municipality or any other political subdivision of the state, or an
52 employee in the executive, legislative or judicial branch of state government or a quasi-public

53 agency, whether in the classified or unclassified service and full or part-time, in such person's
54 capacity as a state or quasi-public agency employee.

55 (5) “Prospective state contractor” shall mean a any individual, group, association,
56 corporation or other entity that submits a bid in response to a bid solicitation by the state, a state
57 agency or a quasi-public agency, or a proposal in response to a request for proposals by the state,
58 a state agency or a quasi-public agency, until the contract has been entered into. “Prospective
59 state contractor” does not include a municipality or any other political subdivision of the state, or
60 an employee in the executive, legislative or judicial branch of state government or a quasi-public
61 agency, whether in the classified or unclassified service and full or part-time, in such person's
62 capacity as a state or quasi-public agency employee.

63 (6) “Principal of a state contractor” shall mean: (i) any individual who is a member of
64 the board of directors of, or has an ownership interest of seven and a half per cent or more in, a
65 state contractor, except for an individual who is a member of the board of directors of a nonprofit
66 organization qualified under Section 501(c)(3) of the Internal Revenue Code of 1986, or any
67 subsequent corresponding internal revenue code of the United States, as from time to time
68 amended; (ii) any individual who is employed by a state contractor as president, treasurer or
69 executive or senior vice president; (iii) any employee of any state contractor who has managerial
70 or discretionary responsibilities with respect to a state contract; (iv) the spouse or any dependent
71 child of an individual described in this paragraph, or (v) any political committee established by
72 or on behalf of an individual described in this paragraph.

73 (7) “Principal of a prospective state contractor” shall mean: (i) any individual who is
74 a member of the board of directors of, or has an ownership interest of seven and a half per cent
75 or more in, a prospective state contractor, except for an individual who is a member of the board
76 of directors of a nonprofit organization qualified under Section 501(c)(3) of the Internal Revenue
77 Code of 1986, or any subsequent corresponding internal revenue code of the United States, as
78 from time to time amended; (ii) any individual who is employed by a prospective state contractor
79 as president, treasurer or executive or senior vice president; (iii) any employee of any
80 prospective state contractor who has managerial or discretionary responsibilities with respect to a
81 state contract; (iv) the spouse or any dependent child of an individual described in this paragraph,
82 or (v) any political committee established by or on behalf of an individual described in this
83 paragraph.

84 (b) No state contractor, prospective state contractor, principal of a state contractor or
85 principal of a prospective state contractor, shall, during the period between the initial bid
86 solicitation by the state to the termination of the contract:

87 (1) Directly or indirectly make any contribution or promise expressly or
88 impliedly to make any contribution to any political party, political committee or candidate, or to
89 any person for any political purpose or use;

90 (2) Knowingly solicit any contribution from any person for any purpose during
91 any period;

92 (3) Coordinate contributions to any political party, political committee or
93 candidate, or to any person for any political purpose or use; or

94 (4) Promise, expressly or impliedly, to make any independent expenditure or
95 electioneering communication in support of, or opposition to, any candidate, political party or
96 political committee.

97 (c) If a state contractor or principal of a state contractor makes or solicits a
98 contribution or makes an independent expenditure or electioneering communication prohibited
99 under subsection (b) of this section, the contracting state agency or quasi-public agency shall
100 void the existing contract with the state contractor, and no state agency or quasi-public agency
101 shall award the state contractor a state contract or an extension or an amendment to a state
102 contract for one year after the election for which any such contribution is made or solicited.
103 Each state contract shall include the provisions of subsection (b) and this subsection of this
104 section as part of the conditions of the contract.

105 (d) If a prospective state contractor or principal of a prospective state contractor
106 makes or solicits a contribution or makes an independent expenditure or electioneering
107 communication prohibited under subsection (b) of this section, no state agency or quasi-public
108 agency shall award the prospective state contractor the contract described in the bid solicitation
109 or request for proposals, or any other state contract for one year after the election for which such
110 independent expenditure or electioneering communication is made or solicited. Each state
111 agency and quasi-public agency shall include the provisions of subsection (b) and this
112 subparagraph of this section in each bid solicitation and request for proposals issued by the
113 agency. The chief executive officer of each prospective state contractor shall: (i) inform each
114 individual described in paragraph (7) of subsection (a) of this section with regard to said
115 prospective state contractor concerning the provisions of subsection (b) and this subsection; (ii)
116 certify in a sworn statement that no such individual shall make or solicit a contribution in
117 violation of the provisions of subsection (b) and this subsection; and (iii) acknowledge in writing
118 that if any such contribution is made or solicited, the prospective state contractor shall be
119 disqualified from being awarded the contract described in the bid solicitation or request for
120 proposals or being awarded any other state contract for one year after the election for which such
121 contribution is made or solicited.

122 (e) No candidate or political committee may directly or indirectly solicit contributions
123 from a state contractor, prospective state contractor, principal of a state contractor or principal of
124 a prospective state contractor.

125 (f) The provisions of this section shall not restrict a principal of a state contractor or
126 principal of a prospective state contractor from soliciting contributions for that principal's own
127 campaign or any political committee organized to promote that principal's own campaign.

128 (g) Each state agency and quasi-public agency shall prepare and forward to the Office
129 of Campaign and Political Finance, on a form prescribed by the director: (i) a list of the state
130 contracts for which the agency is a party; (ii) a list of the state contractors, and principals of state
131 contractors associated with those state contractors, for those contracts for which the agency is a
132 party; and (iii) a list of prospective state contractors, and the principals of prospective state
133 contractors associated with those prospective state contractors, that have submitted a bid or
134 proposal in response to a request for bids or proposals by the agency. Each state agency and
135 quasi-public agency shall forward to that Office, on a form prescribed by the director, any
136 changes, additions or deletions to the lists.

137 (h) The Office of Campaign and Political Finance shall: (i) compile a master list of
138 state contractors, prospective state contractors, principals of state contractors and principals of
139 prospective state contractors for all state agencies and quasi-public agencies, based on the
140 information received under subsection (g) of this section; (ii) publish the master list on the
141 Office's web site; and (iii) provide copies of the master list to any campaign treasurer upon
142 request. The office shall update the master list every three months. Any campaign treasurer who
143 acts in reliance on such master list in good faith shall have a complete defense in any action
144 against the campaign treasurer for depositing a contribution in violation of subsection (e) of this
145 section.

146 (i) Violation of any provision of this section shall be punished by imprisonment for
147 not more than one year or by a fine of not more than $10,000.